

Michele Jochner

Care and Courage in Divorce Law

by Paul Dailing

“Cathy” doesn’t remember the exact time the call came, just that it was late evening, well past bankers’ hours.

It was her new lawyer, Michele M. Jochner, partner at **Schiller DuCanto & Fleck LLP**, calling to check in. Cathy had recently hired the firm, feeling her previous representation wasn’t listening and didn’t care.

As they chatted about the case, Cathy casually asked where Jochner was. “She said, ‘I’m with my mom,’” Cathy recalls.

Sitting by her mother’s hospital bed where her mother slept, Jochner was calling in to see how her client was doing. It was then Cathy knew her lawyer had sympathy for others. What Jochner said next showed the attorney had a rare level of empathy as well.

“I have lived your life for 30 days, and I have not stopped crying. I will walk with you every step of the way, and I will help you.” Right there, I knew she was someone very special,” Cathy recalls. “There’s a spirit about her of connectedness. She knows how to connect with her client probably better than anyone in any field.”

Jochner’s ability to connect with her clients might be surprising considering that she didn’t have clients for most of her career.

Before joining Schiller DuCanto & Fleck in 2012, Jochner had spent her career in the courts as a clerk and researcher, most recently as law clerk for Illinois Supreme Court Justice Mary Ann McMorrow and, after McMorrow’s retirement in 2006, for Justice Charles Freeman.

“For me, it was a perfect move,” Jochner says of the transition to appellate divorce law. “It was a perfect fit. I felt like I was part of the firm for my entire career. They made me feel very welcome, particularly at a difficult time in my life.”

Jochner’s strong record of legal writing and speaking at bar events was all the proof senior partner Donald Schiller needed that Jochner would be a powerful advocate for the firm’s clients.

“There was some leap of faith, but, with her,



it wasn’t that much of a leap,” Schiller says.

Jochner’s story is one of mentorship, particularly from two women she has lost in the last two years. Justice McMorrow died in 2013 and Jochner’s mother Elfriede died a week after Mother’s Day in 2014.

Today, she strives to live up to the examples they set, both in her own life and in the guidance she passes on to the next generation of legal minds.

Genevieve Niemann, a recent law school graduate studying to take the bar, has been the recipient of the latter. After briefly meeting Jochner and sharing a lunch, Jochner offered to look over Niemann’s résumé.

The only time Jochner could clear to talk on the phone was 11 p.m., after a long day of work. Niemann was thrilled at the chance for a brief check-in with such a prominent legal figure. They talked for an hour, going line by line over Niemann’s CV.

“I was just completely blown away by her generosity and support for someone she didn’t know very well,” Niemann says. “I have met a lot of attorneys, but I have not met one like her.”

Wiener Schnitzel and Barbecue

As a child growing up in Chicago, Jochner never realized her parents had accents. Her father’s twang was from Kentucky. Her mother’s accent was German.

Elfriede was born in a section of Prussia that was German before World War II and Polish after. She was 19 when the war ended, the only member of her family known to survive.

“My family on my mother’s side began and ended with her,” Jochner says. “There were no pictures. Everything was destroyed. And she came to this country with those horrors fresh in her mind, but with the perspective of, ‘I am going to live life. I am going to love life and love people. And I am going to make a difference.’”

Elfriede came to the United States in the 1960s, teaching herself English in her early 30s by listening to the radio with a dictionary at the ready.

She met a Kentuckian named Paul Kuegel, who soon ended up in the new field of computers, back in the punch card days. The two married, settling in a condominium on Lake Shore Drive. Michele was their only child.

“Not a lot of people raise children in the city, but I feel so blessed to have been. My mom and I would jump on the bus or the train and go anywhere. We would explore all the neighborhoods, the different people, the different cultures. It was a great experience to be in the city,” Jochner says.

“I look back on it now and think that having a child at her age at that time –

in the ’60s – was a huge thing. It’s more common now, but not so much then. She poured her life into me. She really did.”

The family’s culture clash was most evident when they would go out for meals.

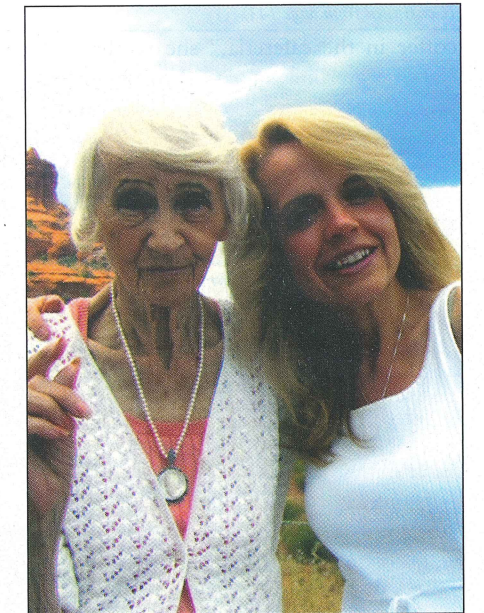
“We would go to German restaurants and then we would go try to find southern buffets.

“Where’s the barbecue?” she recalls, laughing. “So, wiener schnitzel and barbecue. Here you go.”

She attended the then-new Whitney Young High School, where she was drawn not to law, but to architecture. After school, she stayed in Chicago to attend Mundelein College, a four-year Catholic women’s college that has since been absorbed by Loyola University Chicago.

She loved the intellectual atmosphere of the school, where she would eventually graduate *summa cum laude*.

“We had such robust debates over
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From left: Elfriede Kuegel and daughter Jochner in Sedona, Ariz., during a 2010 road trip.



From left: Illinois Supreme Court Justice Mary Ann McMorrow with Jochner at the Hotel InterContinental for the fall 2007 ISBA Unity Dinner, one of several she chaired or co-chaired.



From left: Jochner with her mentors, Justice McMorrow and her mother Elfriede Kuegel, at the ISBA Annual Installation Dinner at the Grand Geneva in June 2002.

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coffee in the cafeteria,” she recalls. “Our classes were only supposed to be an hour. Sometimes we sat there for two or three hours because people were so engaged in the discussion, in the principles.”

The Moment Everything Clicked

Jochner earned a double major in philosophy and economics, with a minor in political science. Although she jokes now about how easy the equation of “philosophy, economics, politics equals law” should have been, it didn’t all click until her senior year in a class called “Law and Politics.”

“Our textbook was a casebook of the U.S. Supreme Court decisions. Oh my gosh, you just opened up a treasure trove for me at that point. Reading those decisions and understanding what the problem was and how the court used the law in its analysis to come to a resolution that was just and good and right was like, ‘Aha. So *there* we go,’” she says.

She started applying to law schools, eventually settling on DePaul due to its reputation for service. She was a member of the Order of the Coif and earned her J.D. with honors in 1990. She earned an LL.M. in taxation in 1992.

While working on her LL.M., she got a part-time job at the Circuit Court of Cook County for the presiding judge of the law division, where her duties included preparing memos for judges and reviewing motions for summary judgment.

It was analysis, process, resolution — everything she enjoyed about studying philosophy. She was hooked and, after earning her LL.M., she asked if she could stay. Jochner spent the next seven years at the Circuit Court, eventually moving to the Legal Research Department for the Office of the Chief Judge.

Acting as researcher for judges who did not have their own dedicated clerks, Jochner was thrilled to find the entire range of legal scholarship at her fingertips.

“I saw something unique at the beginning of my career, to see how that process works and to be able to contribute to that process in some way,” she says.

During this time, she became a go-to researcher for many judges, Ret. Judge Frank Gembala recalls.

“She became quite a regular researcher for me, and I was impressed every time. She was always remarkably thorough. I am very picky about my research when rendering a decision,” says Gembala, who re-entered private practice in 2003. “I was so impressed with her thoroughness and her accuracy and

her diligence with her work product.

“If the memo from Michele says, ‘This is what the law says,’ bam. This is what the law says,” Gembala states confidently.

The Second Mentor

Jochner’s first published legal writing was a piece in the *Transportation Law Journal* immediately out of law school. She estimates she has more than 200 published pieces. Between 1994 and 2002, she won the Lincoln Award Legal Writing Contest seven times.

The winners of the Lincoln Award receive invitations to the ISBA annual meeting. At one of those awards ceremonies, Jochner was thrilled to see a certain jurist would also be receiving an award from the ISBA — Mary Ann McMorrow.

“Justice McMorrow had been an idol for so many years,” Jochner says. “For the women in my generation, Justice McMorrow was the role model. She was the kind of attorney we aspired to be.”

Jochner came up to talk to McMorrow at the reception, introducing herself and preparing to tell the justice how much her example meant to the young attorney. But McMorrow cut in.

“And do you know what she says to me? ‘Michele, I know who you are. I read your articles and enjoyed them.’ Can you imagine? My jaw dropped. I couldn’t believe it. My idol, the one I look up to, was saying ‘I know who you are. I read your articles,’” Jochner says.

They made plans for lunch, but there were no job openings for a clerk at the Illinois Supreme Court at the time. Jochner kept checking in for a year, finally getting the call in 1997.

Gembala was one of her references. He still remembers when McMorrow phoned him to hear his thoughts.

“I have this applicant, Michele Jochner,” and I said, ‘Yeah, hire her. You will not be disappointed,’” Gembala says.

Jochner would spend the next 15 years as a law clerk for the Illinois Supreme Court.

“The diversity of cases — we had criminal, civil, we had procedural, substantive — it was fun. All over the place, all different kind of things. It was like you were a sponge and you absorb everything. And I really enjoyed it,” she says.

By the time she left in 2012, she had written more than 150 articles, organized CLEs, been an adjunct professor at both DePaul and John Marshall, sought and won bar leadership positions and appeared at more than 100 speaking engagements.

During it all, she enjoyed the mentorship of her two role models.

Then, in 2010, during a vacation to California, her mother fell and fractured her hip. Recuperation was difficult, and her mother’s dementia was growing.

“I could see it would never be the same, and it would only get worse,” Jochner says, her voice slightly wavering. “And we knew where it would end. It just depended on where and how long.”

Her Mother’s Caretaker

“I wanted you to be aware of what’s in my life and that my life is not mine,” Jochner told Schiller DuCanto & Fleck when the firm first reached out about hiring her.

It was 2012, and Jochner had spent the last two years as her mother’s caretaker. Her father had died in 2001.

Although she had spent her entire career as scholar and researcher rather than advocate, the family law firm approached her to handle appellate work.

“It was like a dream come true. I had followed this firm from probably the beginning of my career,” Jochner says. “I knew this firm. Their reputation preceded it, the reputation for excellence and professionalism and integrity.”

Jochner accepted the job from the cafeteria at Northwestern Memorial. Her mother was in the ER downstairs. She gave them one last chance to back out of the offer. They refused, vowing again to stand by their new hire no matter what happened.

“With someone like Michele, we thought she would be a real star,” Schiller says. “So it was worth the risk, that she would stay with us and we would support her through what she had to do for her mother.”

Two days into the new job, the night before Thanksgiving, Jochner’s mother was back in the emergency room. She was now bedridden because dementia had swallowed the memory of how to walk. She was also suffering from horrible pneumonia.

As the ER staff held a Thanksgiving potluck in the corridor, a doctor told Jochner her mother had less than an hour to live. She went to talk to her mother.

“I took her hand and said, ‘Mom, I’m in a really good place now. You did such a good job in being a mom. You did. But I’m in a really good place now. You don’t have to worry about me. I am going to be fine. And if you can’t do this anymore and you’re tired, I understand. And it’s OK.’”

Her mother squeezed her hand. Eight hours later, Jochner’s mother was on a regular floor. She didn’t go back to the hospital for a year.

During that year, Jochner developed a routine. She would come home at 8

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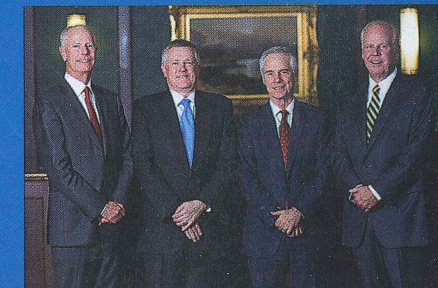
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Above Photo From Left: Michael J. Lubeck, Daniel T. Ryan, Thomas J. Power, Judith E. Conway, Charles A. Porretta, Michael D. Mulvihill, James E. Ocsek, James T. Newman*, Katharine C. Byrne*, Matthew J. Adair, Timothy R. Ocsek, David O. Barrett**, Lawrence R. Weisler** **Partners From Left:** Robert J. Cooney, Jr., William R. Fahey*, Kevin J. Conway*, John D. Cooney* **Not pictured:** Michael T. Egan, Timothy G. Martin**, Daniel T. Stanton, James R. Hopkinson*

*Leading Lawyer **Emerging Lawyer

SALVI

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a stutter by the treating physician.

"The doctor was very supportive. But I couldn't call him to testify because he had a stutter," Salvi says. "And I couldn't videotape him because of the same thing. So for one of the first times I used a professional actor."

The actor nailed his lines without a script. During the same trial, Salvi says the defense lawyer accused the family of the man of looking for someone to blame for his death.

"The defense was really ridiculing this family," Salvi says. "And it was the first time I really seized upon a defense lawyer being somewhat insensitive to my client or their family. And so I took advantage of that."

The verdict in Lake County came in at more than \$3 million.

Learning experiences aren't always that enjoyable, however.

Such was the case when Salvi represented a man who was injured as the passenger in a one-car accident. The duo were in a Cadillac and the driver had been drinking. Unable to manage a curve, the car hit a tree. The driver died. Salvi's client was suing General Motors Co. because the Cadillac had been lent to the driver by a car dealership.

A lawyer from Kirkland & Ellis LLP represented GM and argued that Salvi's client, who ran his own construction business, should have prevented the driver from getting in the car.

Salvi argued that the driver is the driver. He has the wheels. He has the pedals. As he was preparing his client to testify, he told him that the defense would try to portray the drive as a "joy ride."

"So you can't say or do anything that makes this seem like a joyride," Salvi told the client.

"So I put him on the stand, and said, 'Tell the jury what happened.' And the first thing he says: 'Well, we were on what I thought was just a joyride.' And the jury looked over at me like, 'Huh?'"

The verdict came back with \$10 million in damages for Salvi's client, but also concluded he was 30 percent negligent.

"I always thought my planting that seed cost us \$3 million," Salvi says. "Now I'm just a little bit more careful about preparation."

On to the Next Case

Shortly after Salvi finished the *Burns* trial in March, he was already preparing for a trial set to take place in August, which he would again try with his son Patrick.

Salvi says practicing with two of his five sons has been rejuvenating. And that makes sense, considering his son Patrick's pace: He tried three cases in a span of eight months, and that number would soon

grow to four cases in 13 months.

"He wants to try like three or four cases a year, and he means it and he will do it," Salvi says.

"Having them around has really energized me. I think any lawyer who is in practice for decades, you're going to have ups and downs where you think this is great, and other times you're like, am I going to do this for the rest of my life?"

Today, Salvi spends a good amount of time managing his firm's business and its attorneys in a changing landscape for plaintiff's firms. Having a good team of lawyers and staff has been just as important as developing all those trial skills in getting his firm to where it is today.

He says he demands that his attorneys and staff treat clients "like gold." One part of that client service is having Salvi's personal driver steward clients to and from the office and other meetings — in a car with professional grade safety belts.

"You have to surround yourself with really good people, both lawyers and non-lawyers," he says. "You've got to be on the cutting edge of technology and best practices in terms of the operations of your business and the development of business.... It's very difficult for you to do it all by yourself. It's exhausting."

That thought may have surprised a younger Salvi, who by his own admission had a tendency to overwork himself. But, he says, his work ethic comes from an intense competitive streak and a fear of losing.

To explain that competitiveness, he told a story about his son Chris, who played football at the University of Notre Dame. He was 5'10" and 190 pounds. He initially walked on to the team and then earned a scholarship. He did it by constantly working.

"He was that way since he was 7 years old," Salvi says. "People ask, 'What did you do to motivate him?' I encouraged him, but he just had it. He did on his own what was necessary to get himself in a position to do that. And you sort of either have it or you don't."

Salvi says one character trait that great lawyers need to have is competitiveness. As a trial lawyer, he says you have to find a balance between "hating to lose" and not being afraid to lose.

"If you're really competitive and you hate to lose, what are you going to do?" Salvi says.

"You're going to do everything that's necessary to win. If I know the only way I'm not going to lose this case is if I start preparing every day, four or five months in advance, getting up at 3 or 4 o'clock in the morning, start abstracting depositions, then that's what you have to do."

That's what he's done. ■

JOCHNER

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p.m., relieving the home caregiver. She would then feed, bathe and change her mother, readying her for bed. At 10:30, Jochner would put on a pot of coffee and start working. At 1 a.m., she would go to sleep, getting up at 5:30 or 6 a.m. to work remotely until the caregiver arrived at 8:30 and Jochner could go to the office.

During this time, she never stopped reaching out to her clients.

"She just has a gift of making you feel you're the only one," says Cathy.

She also remained strong in her dedication to the next generation of lawyers, particularly young women, trying to be the mentor and female role model McMorro was once for her.

"I can see in them the potential that they have not yet seen in themselves," Jochner says. "It makes me happy. I get a lot of joy out of being able to pay it forward."

"She's always been someone I could call whenever I needed," Niemann says of Jochner, recalling the advice, dinners and laughter the two shared.

On her 91st birthday, Elfriede became ill. She started declining in March, going into the hospital two days before Mother's Day. She was able to be released on Sunday, allowing the two to celebrate one last Mother's Day at home. She was readmitted two days later.

"This time, there was no miracle," Jochner says.

Elfriede Kuegel, born in Prussia, teen survivor of World War II, a tiny, larger than life lady who would talk and joke with strangers, died Sunday, May 18, 2014.

Expectations for the Future

A year after her mother's death, Jochner held a party celebrating her mother's life. She invited what she called her "family by choice," a collection of friends, acquaintances, peers and assorted loved ones who make up her support network.

Her personal losses over the last few years have made her a better advocate for divorce clients facing a different kind of mourning.

"You grieve the end of the dream and what you hoped and what you expected for the future," she says. "I am able to help those who need help, and be a voice for those who have not been heard."

She plans to continue being there for her clients in any way needed. She plans to continue being a mentor to and herald for the next generation of women in law.

"She's just a complete role model for me," Niemann says. "I aspire to be just like her someday." ■

STOBBS

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which I had to throw out the window in light of what Melvin had just said.

"I gave a closing argument without any notes and off the cuff. I got up and told the jury that Melvin didn't believe in the right to be presumed innocent. I told the jury that Melvin didn't believe in the right not to testify, because if he did he would not have testified. I told the jury that notwithstanding Melvin's testimony, he was still presumed innocent. That, like it or not, that is how our system of justice is set up."

"I then went through the only count he didn't confess to and told the jury the government had not proved all of the elements of that count. The jury returned and acquitted Melvin of that count, which saved him 25 years in jail."

Going to Depositions as a Youth

The law has been his life as long as he can remember, Stobbs says.

"I never knew any other way. Ever since I can remember, I wanted to be a lawyer like my dad (John Dale Stobbs). He is that rare 1 percent of lawyers who is truly brilliant and hard working. He immediately can grasp an issue and know what to do."

"He could have specialized in admiralty,

HORWITZ BROTHERS

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It was a union plant, and the Horwitzes had a relationship with the union members.

"They gave the plant a very interesting final kiss goodbye," Garofalo says.

The firm rented a hotel room nearby and hired an audiometric specialist to give hearing tests in a specially designed truck. This hearing test was given to every union member of the plant who wanted one.

They issued requests to the Occupational Safety and Health Administration — OSHA — for the personnel files of every worker who took the test. They then compared the results of the test to test results documented in their personnel files to check for hearing loss.

This was a unique tactic — at least as far as Garofalo had seen — because there is no discovery under workers' compensation law. They used OSHA as a "de facto" discovery device," Garofalo says.

After evaluating the tests, the brothers filed about 100 workers' compensation cases on behalf of the union workers they thought suffered compensable hearing loss under the Illinois law.

"My client got hit with about 100

commercial, criminal defense or any other type of law and would have been the best. He sincerely loves the law. He started taking me to depositions when I was 10 or 12 years old. He's 83 and still works 40 to 50 hours a week, which is remarkable."

His brother, Stephen, is an associate judge in Madison County who has been assigned the asbestos docket. That is a sign, Stobbs says, of the respect the Madison County circuit judges have for Steve's abilities.

"Steve was born to be a judge. He is smart, patient and fair. Everyone who appears before him tells me what a fantastic judge he is."

Stobbs and his wife, Rosario, a Peruvian whom he met while in Peru, have three children, John Dale III, a junior at Saint Louis University High School, a daughter, Lorena, and a seventh grader, Sophia, both students at Villa Duchesne in St. Louis. Stobbs says it is ironic that his son Dale's freshman religion teacher was Fr. Marco, who Stobbs met on his first day in Spain and who convinced Fr. Sullivan to allow him to stay at Saint Louis University-Madrid.

He hopes one, two or all of his children will follow in the family's legal footsteps. There will always be a place for them in his firm.

Stobbs is always aware that he represents the family name and that every action reflects on his father. Colleagues say he

workers' compensation cases immediately after the plant closed, all alleging hearing loss," he says. "The plant was absolutely shocked. They never anticipated that they were going to have any liability for hearing loss. They never saw it coming."

Garofalo did — at least once he saw the OSHA request.

"It wasn't a class action. It was 100 cases that were filed against the plant," he says. "I had never seen anything like this. I was really amazed at the creativity they had used in doing this. It was very creative legal maneuvering."

The next move was to create a settlement offer — a couple million dollars. After receiving the offer, some representatives from Alumax wanted to have a meeting with the Horwitzes. So they went to their office.

"The Horwitzes were wonderful hosts," Garofalo says. "They had a big spread of food."

Garofalo, a few associates and a few Alumax representatives attended. The meeting, he recalls, "did not go well." The two sides argued about cause and liability.

The plant reps stressed that they provided employees with ear plugs and hence argued that any hearing loss experienced by the employees certainly could not have happened at work.

"My little group made a decision that as

upholds that name very well.

"John knows federal law inside and out," says Keefe. "He helped initiate a program in the Southern District of Illinois and the Eastern District of Missouri in which discovery is computerized and posted so defendants can review (the material to be used against them in the case). John was the driving force in that."

"He has turned away potentially very good business because he felt it might risk causing him to spend less time than necessary with (existing clients). He's one of the finest attorneys I know."

Stobbs says he was blessed to have had a father who showed him that there was no substitute for hard work and honesty. "My dad is a classic self-made man. He has lived the American Dream. My parents instilled in all seven of us that there were no shortcuts in life.

"Obviously, the most important role model for me is my dad, and as an attorney, I don't think I would have made it on my own had it not been for the influence of people like Judge William Beatty, Bill Lucco, John O'Gara or Phil Kavanaugh. I feel so lucky to have chosen this path in life and am fortunate that I have done well." ■

a psychological matter we weren't going to eat any of their food," Garofalo says, still stunned after all these years. "And from my Italian background, I couldn't believe that even with all of the argumentation, we were going to walk away from all this beautiful food. You don't waste food."

The debate lasted the entire meeting. And just like that, with no agreement reached, the meeting was over. Garofalo stared at the spread in disbelief as his team walked out.

"I remember looking at the table going, 'You gotta be kidding me! We're going to leave all this food?'"

Many of the cases were settled, he says. Some were tried. No matter the case, the two sides went through them one at a time for several years.

"There was no easy way to do it," he says.

"I think they scored huge points with the union members. They got a lot of these guys — who were going to be without these good plant jobs — a bonus for hearing loss. I don't think any other lawyers would have thought of that as an avenue for recovery for these people.

"That's what made me think the Horwitz guys were smarter than the average bear." ■